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RECEIVED Patent 112.P14025
CENTRAL FAX CENTER**JAN 30 2007**REMARKS

The present patent application has been reviewed in light of the Office Action, dated October 30, 2006. Claims 1, 2, and 11-14 are rejected under 35 U.S. C. §112, second paragraph. Claims 4, 5, 7, and 8 are rejected under 35 U.S.C. §102(e). Claims 1, 2, and 11 are rejected under 35 U.S.C. §103(a). Claims 1, 2, 4, 5, 7, 8, and 11-26 are pending and presented for examination. Claims 1, 2, 4, 5, 7, 8, 12 and 13 are currently amended. Claims 15-26 are new. Claims 3, 6, 9, and 10 were previously cancelled so that they could be pursued in a Divisional Application, now 11/513,753. As claims 3, 6, 9, and 10 are being pursued elsewhere, no prosecution history estoppel results from their cancellation. Assignee asserts that cancelling these claims does not narrow the scope of any of the claims in the present application. No new matter has been added. Reconsideration and early allowance of the claims of the present application is respectfully requested.

Claim rejections – 35 USC §112, second paragraph

Claims 1, 2, and 11-14 are rejected under 35 U.S. C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

Assignee has amended independent claims 1 and 12 by removing the language at issue. Assignee believes that these amendments broaden claim scope and that therefore no prosecution history estoppel arises from these amendments. Further, the Examiner rejected claims 2, 11, 13, and 14 which depend from independent claims 1 and 12. Assignee respectfully requests that the Examiner withdraw the rejection as to claims 1, 2, and 11-14. Assignee respectfully asserts that these claims are in condition for allowance.

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Claim Rejections – 35 USC §102(e)

Claims 4, 5, 7, and 8 are rejected under 35 U.S.C. §102(e) as being anticipated by Hayakawa (U.S. Patent No. 6,130,993).

In paragraph nine of the instant Office Action the Examiner summarizes the rejection of independent claims 4 and 7 by stating in relevant part that “..since the claims to [sic] not require the vibration sensor to be mounted directly on the light sensitive charge storage device, Hayakawa meets the claims language....” Assignee has amended independent claims 4 and 7 to include “...a vibration sensor mounted on said light storage device....” This is believed to be sufficient to distinguish over the applied patent. Assignee respectfully requests that the Examiner withdraw the rejection as to claims 4 and 7. Assignee respectfully asserts that claims 4 and 7 are now in condition for allowance.

Further, the Examiner rejected claims 5, and 8 which depend from the independent claims discussed in the preceding paragraph and which can be distinguished on at least the same basis. Assignee respectfully requests that the Examiner also withdraw the rejection as to these dependent claims. Assignee respectfully asserts that these dependent claims are in condition for allowance.

Claim Rejections – 35 USC §103(a)

Claims 1, 2, and 11 are rejected under 35 U.S.C. §103(a) as being unpatentable over Hayakawa et al. (U.S. Patent No. 6,130,993) in view of Umeda et al. (U.S. Patent No. 6,452,632). Assignee respectfully traverses the rejection.

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The Examiner is kindly reminded that, in order to establish that a claim is *prima facie* obvious, three basic criteria must be met (see MPEP §§ 2142 and 2143):

1. The cited document (or documents when combined) must teach or suggest all the claim limitations;
2. There must be some suggestion or motivation to modify the cited document or to combine the cited documents' teachings;
3. There must be a reasonable expectation of success.

We begin with claim 1. Assuming, Hayakawa and Umeda could be properly combined, which is not conceded, Assignee asserts the combination would not provide Assignee's claimed subject matter. More specifically, for example, Assignee discloses and claim 1 recites an optical scanner. Hayakawa and Umeda do not teach or suggest an optical scanner. Both of the applied patents disclose, instead, mobile cameras. Optical scanners, in contrast, are generally stationary devices. They provide a platform from which it is possible to detect slight vibrations or oscillations. Furthermore, enabled by Assignee's teachings, such devices provide a platform from which to reduce and/or compensate for the effects of vibration induced optical path deviation. It is asserted that this is not disclosed or suggested by the patents applied by the Examiner, whether viewed individually or in combination.

Umeda is applied to a mobile video camera, as previously suggested. Thus, Umeda, after capturing video, attempts to correct for error inferred, i.e. estimated and/or approximated, by the camera (as opposed to making direct measurements) by comparing video components. Umeda, thus, teaches a type of electrical signal compensation applied during post video capture processing. Umeda employs color video components to perform this post video capture processing. Color video components obtained by the use of a mobile camera provides data

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capable of being employed by the camera to infer error and correct, via signal processing, for the inferred error. Furthermore, while Umeda's digital signal processor, may be incorporated into the same chip as the image sensor, there is no technical requirement that it be done so. Umeda's post capture video processing may be carried out adequately on a separate chip or somewhere else in a system, for example. Alternatively, the same functionality may be affected by software anytime after video capture. Umeda teaches the functional equivalent of running an algorithm. Therefore, Umeda does not describe an optical scanner. Umeda, thus, in effect, discloses a signal processing technique.

Assignee's claimed subject matter, in contrast, measures a mechanical response and applies a mechanical correction during image capture. Likewise, claim 1 makes it clear that the vibration sensor is mounted in a position intended to adequately measure vibrations that could affect scanning quality. Likewise, this allows the processing of black-and-white images, rather than color video, despite the reduction in available data typically from imaging versus video and black and while images versus color. Therefore, not only does Umeda not describe an optical scanner, likewise, one of ordinary skill would not be led to apply Umeda to an optical scanner based on the disclosures in Umeda and Hayakawa, whether viewed individually or in combination.

In addition, the proposed combination is also not a proper combination. Mounting a digital signal processor as described in Umeda on an image sensor, for example, would not operate in the manner claimed. The question is whether the two teachings may be combined to affect the same result. Here, they may not. If Umeda's shake detection signal processor is substituted for Assignee's "...vibration sensor mounted on the light sensitive charge storage device..." as claimed in Assignee's claim 1, no mechanical correction compensating for the

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affects of vibration during image capture would be possible. Therefore, claim 1 is believed to patentable distinguish from Umeda and Hayakawa, whether viewed individually or in combination.

In paragraph 16 of the instant Office Action, the Examiner states that Umeda's "...camera shake detection circuit" provides an output "inherently used to correct the image signal." Assignee respectfully disagrees with the Examiner's contention regarding the inherent teaching of Umeda. However, this inherency position taken by the Examiner is believed to be rendered moot in any event in light of the foregoing.

The remaining claims rejected, 2 and 11, distinguish on at least the same or similar grounds as claim 1. Assignee, therefore, respectfully requests that the Examiner withdraw the rejection of claims 1, 2 and 11. Assignee respectfully asserts that the claims are in condition for allowance.

Likewise, it is noted that Assignee's failure to comment directly upon any of the positions asserted by Examiner in the office action does not indicate agreement or acquiescence with those asserted positions. Rather, it is believed that any positions not commented upon are rendered moot in light of the foregoing.

Please charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account number 50-3703.

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Conclusion

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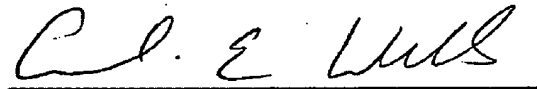
JAN 30 2007

In view of the foregoing, it is respectfully asserted that all of the claims pending in this patent application are in condition for allowance. Reconsideration of this patent application and early allowance of the claims is respectfully requested.

Respectfully submitted,

Berkeley Law & Technology Group, LLC

Dated: 1/30/07



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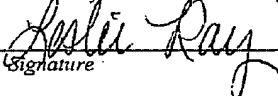
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